2: Skrefsrud M-5 (1870-1871) 1942 AW42 Santal AW42

539 (migrated) to the seven-river land Campa[23]. There were two passes, one Cae pass and the other the Campa pass.

In Campa they built a great many forts in order to ensure that enemies should not be able to overcome them. One was the Khąiri fort; this was the fort of the Hąmbrąm people; one was the Kąeṇḍa fort; this belonged to the Kisku people. One was the Campa fort; this belonged to the Murmus. One was the Badoli fort; this belonged to the Mąrṇḍis; and one was the Sim fort; this belonged to the Ṭuḍu people. There were still other forts; but we have forgotten the names.

In Campa we stayed for ages, and there we were a great people. At that time we were not subordinate to anybody. The "kings" (rulers) were persons of the Kisku sept. The Murmus were from olden times our priests; we call them Murmu Ṭhąkur. The Sąrąns were peons; they were fighters. The Hąmbrąms were the nobility, the Mąrṇḍis were the wealthy class, and the Ṭuḍus were drumming the dancing- and the kettle-drums, and they were making all kinds of things of iron. The Baske people were buying and selling (merchants). What special work those belonging to the remaining septs had, we do not remember.

Having settled in Campa they placed Marañ buru, the Five-Six and the Jahąr era[24] in a sacred grove at the end of the village-street and were worshipping them. The Day-spirit they worshipped at sun-rise every fifth year.

Our ancestors of old have, people say, told, that in olden times, when Ram raja was living, at that time all Kharwar people went with him to Loṅka (Ceylon) and helped him to vanquish Rabona raja; for this reason from then on for a very long time we had no fighting or anything of this kind with the Dekos[25]. They were living in the plains and we in the forests and on the hills. But afterwards we got very much fighting with the Dekos; until this day we have no happy relations with them. As soon as we have cleared the jungle in any country, the Dekos come and rob us of it. Still if the Sahibs[26] nowadays did not help them, we should soon drive them to the other side of the Ganges. At the time of the insurrection[27] we had intended to make the Ganges our boundary; but

[823] [114] [778] [829] [671] [175] [669]

[23] It is not possible with any certainty to identify the countries mentioned. Skrefsrud thought that the expression "the country of the seven rivers" might be identified with the present Punjab. Others will identify Cae Campa with the country to the northwest of the present Chota Nagpur. As regards the last mentioned, the same name might have reference to two different countries. [24] lit. The Lady of the Sacred Grove. Every Santal village is to have a sacred grove (jahąr) in its vicinity, where possible, a part of the original forest, consisting of sal-trees and at least one Mahua tree. More further on. [25] Deko is the name used by the Santals for a non-Santal of the better class, especially Hindus. A Mohammedan will not be so called, if he is recognized as a Mohammedan. [26] i.e., the European courts. The Santal's ideas of justice are not regulated by written laws. [27] The Santal insurrection of 1855, was not aimed against the Government of the day, but was a misguided attempt to get rid of the money-lenders. The Government naturally had to intervene. This insurrection marks the beginning of a new era for the Santals, according to their own estimation in many ways a beginning of deterioration. The mention of the insurrection here is an anticipation.

XV. A NEW AGREEMENT

671 On the 15th February 1916 the Parganas, Deomanjhis, Sardars, and different other people of the Dumka district gathered in Dumka and talked about their daughters and widows. Having talked the matter over, they came to the conclusion: It would be very good, if what is printed here below became law:

Daughters.

428 1. If a man has only daughters, these will be his heirs when married, that is to say, their husbands will get the rice- and other land.

The brothers of the father will get half the cattle. The man who sets fire to the mouth of the dead will get a calf. If a girl, for whom they have brought a house-son-in-law dies without having children, the house-son-in-law gets nothing; he goes out and away with his calf.

2. When a man has sons and daughters, and the sons die without having children, the girls become the heirs, that is to say, the father or the brothers may bring house-sons-in-law for the girls, or they may bring the husband to the girl's father's home to live there.

3. If a girl is married without a house-son-in-law being brought for her she will not become heir.

4. If a house-son-in-law does not stay, his rights end.

5. If a girl for whom they have brought a house-son-in-law dies after having borne children, her children will get the rights of their mother; and the house-son-in-law will stay there until he remarries, and his children will support him. If he remarries, he will go out and away.

Widows.

428 When a woman becomes a widow, she has the right to be supported from her husband's
736 home, so long as she lives.

If she is married again, her right in the house of her first husband ceases.

Until she is married again, a widow may manage the house of her husband; but when the woman dies or is married again, all rice- and other land will belong to the brothers of her husband or their heirs.

3t Mukherjea O. Y-4,5 (ca. 1933-1939) 1962
AW42 Santal AW42
SANTAL PARGANAS

So to preserve the decorum of the village during *Bitlabà*, custom lays it down that if the Headman of a village which is to be publicly disgraced thus, receives the mass of Santals with a pot of water as a token of penance, they will desist from singing the obscene songs and will carry out the rest of the programme.

What is dangerous for the State is that during a *Bitlabà*, mass tribal movements are seen throughout the Santal Parganas. Sometimes the infuriated mobs commit excesses of various kinds and many such cases roll into the courts. Again, there are times when the Santal takes it into his head to commit *Bitlabà* on non-Santals. Now, speaking in terms of Santal customary law, non-Santals are beyond their pale, but who can stop the Santal when his passion has been roused? He does not listen to arguments and several years ago the authorities had to quell a disturbance at the Godda subdivision of the Santal Parganas, where tens of thousands of Santals had assembled to lead a *Bitlabà* against some offending non-Santal residents. Our picture of a tribal ferment during a contemplated social ostracism is not at all an exaggerated one. It created so great a flutter that Santals from Monghyr, Bhagalpur and even Rajmahal marched on to join the movement at Godda.

31 Mukherjea O. Y-4,5 (ca. 1933-1939) 1962
AW42 Santal AW42

dangers visiting the tribe. In the background of their minds, they are not imbued by any moral feelings or any sense of tribal aristocracy. Some think that in case of such transgression, the gods in their ire will send drought and famine and pestilence in the place thus visited by sin as it is an insult to them. But when one analyses the behaviour of the Santal masses, when they receive news of prohibited sexual congress and the collective indignation they give vent to as a reaction, one is led to believe that the Santal's almost "instinctive fear of such defilement has behind it also the sub-conscious and, to all appearances, instinctive fear of a mysterious dangerous power of the nature of *mana* infecting the erring woman and her family and calculated to prove contaminating and destructive as death."[1]

Santal Customary Law

We have seen in the foregoing pages that the village-council is the repository of Santal tribal law concerning succession and inheritance. It is therefore necessary for us to give the reader some idea of the law on the subject.

Generally speaking, all the sons of a Santal have equal shares of inheritance in the properties left by their deceased father. The daughter has no right

1. The Kharias. Page 177. Rai Bahadur S. C. Roy.

181 619 783 784 181 783 778 671 623 428 428 [113]

3t Mukherjea O. Y-4, 8 (ca. 1933-1939) 1902
AW42 Santal AW42

428 of any claim to a portion, as we shall see in detail later on. The father steps into the shoes of his childless son; and the line of devolution next descends to the brothers (in the absence of the father), and thereafter to the male agnates. In case even agnates are wanting in the chain of succession, the turn comes to the daughter in trust for her children. The widow, as such, has no rights even of maintenance, but if she has minor children, she can manage the property till the sons attain majority and receive their shares. A widow who marries again, receives nothing; and the male agnates manage the property till the children come of age.

428
177
671 *Santal Customary Law at Mayurbhanj*

Customary law of the Santal has been thoroughly affected by Hindu law in the Mayurbhanj State. This struck us while we were at Muruda when in answer to our question as to the daughter's rights of inheritance, a woman answered that should a Santal householder die without leaving male issues, the daughter will succeed in preference to all agnates. Questioned about the widow's rights of inheritance, she replied that should a Santal die leaving his wife and separated brothers of the full blood, the widow inherits everything of her husband's share. We write this to show how the principles of Hindu law of *Mitakshóra* branch have

3t Mukherjea O. Y-4, 5 (ca. 1933-1939) 1962
AW42 Santal AW42
MAYURBHANJ

permeated the Santal mind. As a result, through disuse, the Santal has well nigh forgotten his old tribal law governing the disposal of property, real or personal. On closer enquiries from local lawyers we understood that the courts have uniformly upheld *Mitakshòra* Hindu Law as governing the Santal, both as substantive law and as principles of justice, equity and good conscience. A pleader[1] who handled the largest number of Santal clients told us that in his experience, the Santal has seldom tried to plead his personal tribal law. The only case he knew was decided at Panchpir about the year 1928, when local custom to the exclusion of daughter's rights of inheritance was seriously pleaded by the defendant agnate alleging *inter alia* that the daughter is not entitled according to tribal custom to offer *pindas* to her parents which only could constitute her right to property. But the evidence adduced in support of the custom was found insufficient, not ancient and invariable, a difficult proposition for a Santal to establish, and the court allowed the daughter's rights of inheritance on principles of equity. This case, said the pleader, was rather in the nature of an exception proving the rule that the Santal does not seriously plead his tribal custom in

1. Mr. Paresh Ch. Bose, pleader, Baripada.

St Mukherjea O. Y-4, 8 (ca. 1933-1939) 1902
AW42 Santal AW42
MAYURBHANJ

428 lawsuits, and even if he does rarely, he fails miserably to establish it.
177
[692]

So in the domain of partition and inheritance, we find that the sons share equally, the daughter succeeds when there is no son to the man who dies. The widowed mother has her rights of maintenance recognised at the hands of her sons. The sonless widow becomes the sole proprietor, and like the *Mitakshòra* widow, cannot alienate property without legal necessity.

Adoption (Pushapo)

597 The Santal who has no son can adopt a son in Mayurbhanj. The adopted son is generally a relation and rarely unrelated. The adoption is made in the presence of the Headman and the Panchayet. Now, occasionally, proceedings are recorded in writing, but previously everything was oral. The devolution of property follows the *Mitakshòra* branch of Hindu law.
[177]
[428]

Ghar-Jamai

428 As in the Santal Parganas, the Santals of
184 Mayurbhanj have the custom of providing for their
606 daughters through the institution known as "domesticated son-in-law" (Ghar Janwane or Ghardi Janwane: there is however a subtle difference between the two). His rights here are essentially the same as
428 in S. P. So if there be a son, and such a son-in-law
606

3t Mukherjea O. Y-4, 5 (ca. 1933-1939) 1902
AW42 Santal AW42
SANTAL PARGANAS

562 423 428 606 fically arranged at the time of marriage by a public declaration, which has all the force of an oral will.

As a matter of fact, it is the daughter who inherits. The *ghardi jamwane* is the representative as tenant and owner of the woman in the eye of tribal law, who has no rights of inheritance recognised for her. This position will be still more clear when we remember that if the *ghardi jamwane* leaves his father-in-law's protection, his rights in his father-in-law's lands melt away for ever. And never has his own relatives any right to his so-called inheritance. The children of the marriage are the only beneficiaries. In case the *ghardi jamwane*'s wife [691] dies, the tribal customs generally allow him a life-interest only, provided he does not remarry. This legal fiction was created by Santal customary law to provide lands for daughters; because, as women, they cannot perform certain social and religious duties which only men can perform.

562 423 428 178 But times are changing. So we find in many cases the Settlement courts have recorded daughters as *raiyats* in agricultural lands, and provided them with a life-tenure; and reformist Santal associations are trying for the recognition of the rights of inheritance of married Santal girls.

736 67 423 422 But the lot of the widow in the Santal customary law is the hardest. She is not entitled to any land, although she may own personal property, either in her father's home or in her husband's.

3t Mukherjea O. Y-4,5 (ca. 1933-1939) 1962
AW42 Santal AW42
SANTAL PARGANAS

either in her father's home or in her husband's. It may be that children may look after their widowed mother out of kindness and gratitude, but she has no rights recognised for her. But if she has no children, the only alternative is again the kindness of the members of her husband's family. If they are hard-hearted, she is thrown adrift in this wide world.

There were, however, signs of Santal public opinion asserting itself to ameliorate the condition of the widows. A section of Santal educated opinion recently wanted that the widow should have her rights of maintenance out of her late husband's properties, till she remarried. But tribal laws are hard and conservatism is deep-rooted.[1]

The ultimate result of the reformist moves can be gleaned from the Santal Parganas Enquiry Committee Report published in 1938. The committee (page 49) while discussing "Transfer by gift or will" notices that "there has been for many years a slow trend towards a change in the law which would give (Santal) women a recognised position. But there is no unanimity among the Santals on the point. The committee examined a number of witnesses on the point, among others, the President of the Santal

1. With acknowledgments to Rev. P. O. Bodding.

3t Mukherjea O. Y-4, 5 (ca. 1933-1939) 1962
AW42 Santal AW42
SANTAL PARGANAS

Malko Sabha.[1] But even this body which represents more advanced opinion was not in favour of permitting a Santal to transfer by will anything except his self-acquired property; and the President admitted that this change would have little practical effect, since the laws against alienation practically limit the self-acquired property to such land as the raiyat has himself reclaimed."

Considering all these, the committee did not think a change ought to be enforced by legislation and hoped that the customary law would develop 'naturally and gradually.' Finally, they recommended that civil cases involving questions of Santal law of inheritance should, where possible, be referred to arbitration by Santal arbitrators to facilitate the growth of a convention.

Conclusion

We have already seen that the Santals have a well-knit social organization which moulds their thoughts, feelings and actions. So the sentiments produced in the mind of the tribe have a special stamp of their own. The actions inspired by these ideas have a similarity under social discipline and these, in their turn, crystallize into usages, and next,

---

1. Hor Malto Maran sabha (?)